

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
1	Navajo Refining Company	2.5 Training	Navajo has changed the training program described in the permit application. The current training program is self-paced and computer based with many modules that are routinely updated. Rather than refer to the training procedures included with Section 12 of the application, the permit should delete the sentence "The Permittee shall follow the procedures included in Section 12 of the Permit Application". Navajo will still have to conduct training and maintain records as required b the referenced regulations.	NMED has modified the permit to reference the training program as maintained at the Navajo Refining Company administrative offices located at the Artesia Refinery. NMED included a provision that allows for review of the training program upon request.
2	Navajo Refining Company	2.7.1 Required Equipment	Since the emergency equipment maintained by the facility may change, we suggest changing the wording to "The Permittee shall maintain ...emergency equipment specified in Permit Attachment 1 (the permit erroneously refers to Attachment 2) or the most recent version of the SPCC Plan and Facility Response Plan on file	NMED modified the Permit to specify that the Permittee will maintain emergency equipment as described in their updated SPCC and Facility Response Plans. The modification includes a provision for the Permittee to make the updated plans available upon request by NMED. The reference to the Permit Attachment was changed from

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
			at the [F]acili[ty] ."	Permit Attachment 2 to Permit Attachment 1.
3	Navajo Refining Company	2.7.3 Access to Communication and Alarm Systems a e11	Since the communication and alarm equipment maintained by the facility may change, we suggest changing the wording to "The Permittee shall maintain access to the communication and alarm equipment specified in Permit Attachment 2 or the most recent version of the SPCC Plan and Facility Response Plan on file at the facility."	NMED modified the Permit to reference the Permittee's updated SPCC and Facility Response Plans. The modification includes a provision for the Permittee to make the updated plans available upon request by NMED.
4	Navajo Refining Company	2.8.1 Implementation of Plan	The SPCC Plan and Facility Response Plan that comprise the Contingency Plan are continually updated. To avoid potentially having to submit a Class I Modification to notify NMED of every change we suggest the following wording: "The Permittee shall carry out the provisions of the Contingency Plan, Permit Attachment 1, or the most recent version of the plan(s) on file at the [F]acility..."	NMED modified the Permit to reference the updated SPCC and Facility Response Plans. The modification includes a provision for the Permittee to make the updated plans available upon request by NMED. NMED agrees that the reference to 40 CFR 264.227 no longer applies to the surface impoundments because the Evaporation Ponds are no longer in use.

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
			This paragraph also specifies that the [C]ontingency [P]lan must cover the requirements of 40 CFR 264.227. This reference covers emergency repairs and contingency plans for removing regulated surface impoundments from service. Since the Evaporation Ponds have already been removed from service and no longer have liquid in them, this requirement is not applicable and the reference should be removed from the permit.	The Permit was modified to refer to the general requirements for contingency plans in 40 CFR subpart D.
5	Navajo Refining Company	2.12.2 Adjustments to the Cost Estimates	The first sentence and second sentence are inconsistent with each other with regard to the required schedule for updating the closure and post closure cost estimates. Either the first sentence or the second sentence applies, depending on the mechanism the Permittee uses to provide financial assurance - not both sentences. Navajo	NMED agrees that the second sentence in Permit Section 2.12.2 applies if Navajo intends to continue to use a corporate financial assurance guarantee as the instrument for financial assurance. The first sentence will apply if an alternate instrument is selected by Navajo Refining Company to fulfill the financial assurance requirements for

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
			uses a corporate financial guarantee, so the second sentence appears to be more applicable.	closure and post-closure care.
6	Navajo Refining Company	3.2.3.a North Colony Landfarm Post-closure Care	As discussed in the permit application, the post-closure care period for the North Colony Landfarm began in September 1991. We would like to see a sentence added that reflects this fact. .	The final vegetative cover has not been installed at the North Colony Landfarm; therefore, the post-closure care period did not formally begin in September 1991. NMED recognizes that Navajo Refining Company has not added waste to the North Colony Landfarm since September 1991 and will consider the post-closure care period to be complete after 19 additional years provided that no new releases from the North Colony Landfarm are detected.
7	Navajo Refining Company	3.2.3.a (d) North Colony Landfarm Post-closure Care	In subparagraph "d", the last sampling year should be 17 years after the effective date of the permit (the year prior to the end of the 30 year post-closure period, which began in 1991). This paragraph also states that the sampling locations have to be approved by the Secretary, so we would like to	NMED scheduled the final soil confirmation sampling event to be conducted at the NCL to coincide with the expiration of the first renewal of the Post-closure Care Permit. The expiration of the first renewal of the Post-closure Care Permit is anticipated to occur 20 years from the effective date

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
			see a requirement added that Navajo submit a work plan for this sampling to the N[M]ED for approval, 30 days prior to the date that the sampling is required.	of this Permit. NMED has modified the permit to include a requirement to submit soil sampling work plans to the Department for approval no less than 30 days prior to the anticipated sampling events.
8	Navajo Refining Company	3.2.3.c Evaporation Ponds Post-closure Care	Subparagraphs "a" and "b" refer to a cover on the evaporation ponds. Since closure requirements have not yet been determined for these units, please add "if applicable".	NMED agrees that the closure requirements for the Evaporation Ponds have not yet been determined; however, it is NMED's opinion that there will likely be a final cover. NMED recognizes that the possibility exists that the final cover may function exclusively to control wind erosion and the generation of dust and may not necessarily be constructed to prevent infiltration of surface waters. The requirements of Permit Section 3.2.3.c will apply regardless of the design and function of the final cover.
9	Navajo Refining	3.3.1 Record of Land	Notices to local land authorities and deed notations indicating the use of the	Navajo Refining Company provided copies of the notifications regarding

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
	Company	Use	NCL and TEL for hazardous waste management that seem to satisfy the requirements of this section were made in 1989. Copies of these notices were provided in Attachment B-5 (TEL Closure Certification) of the permit application (see last section of this attachment). We request that the provisions of this section as they apply to the TEL and NCL be removed.	disposal of hazardous waste at the NCL and TEL in their Post-closure Care Permit Application. The requirement in Section 3.3.1 of the Permit to submit such notification has been removed.
10	Navajo Refining Company	4.6.1.a.a Corrective Action for Soil	This paragraph directs Navajo to notify NMED if there is a statistically significant increase in concentration of constituents in treatment zone soils. A statement should be incorporated that this increase is in comparison to the last sampling results of treatment zone soils (which occurred in 1995). 40 CFR 264.278 is referenced in this permit section. This requirement applies to monitoring unsaturated zone soils (native soils below the treatment zone) but not treatment zone soils. Since the	NMED has modified the Permit to reference the 1995 NCL treatment zone sampling results for comparison purposes to evaluate for a statistically significant increase in the concentrations of constituents in the treatment zone. The Permit also was modified to reference soils present beneath the treatment zone. The comparison of contaminant concentrations relative to background concentrations referenced in 40 CFR 264.278(f) applies to native soils

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
			requirement in this section is for treatment zone soils (saturated zone), we recommend removing the CFR reference to avoid potential future confusion.	located beneath the treatment zone.
11	Navajo Refining Company	4.6.1.b.a.i (c) Point of Compliance and 4.6.1.b.a.ii (b) Groundwater Monitoring	NCL-34 has product in it [and boring] B-3 is not [completed as] a monitor well.	The Permit has been modified to remove boring B-3 from the list of ground water monitoring wells. NCL-34 remains on the list as a compliance monitoring well. Navajo Refining Company should propose not collecting water samples from wells containing phase-separated hydrocarbons in their ground water monitoring work plan because the wells will obviously contain contaminants at concentrations greater than applicable cleanup standards. Navajo Refining Company must begin collecting ground water samples from monitoring well NCL-34 when phase-separated hydrocarbons are no longer present in the well.
12	Navajo	Corrective	This section requires Navajo, pursuant	Permit Condition 4.6.1.a has been

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
	Refining Company	Action Program for Releases from the NCL	to Permit Condition 4.6.1.a and 4.6.1.b, to notify NMED if there is a significant increase of constituents in soils below the treatment zone. Permit Condition 4.6.1.a requires notification if there is an increase of constituent concentrations in the treatment zone soils (not soils below the treatment zone), and 4.6.1.b discusses groundwater monitoring requirements. While we believe the intent of this section is that an increase of constituent concentrations in the soils below the treatment zone may indicate a release, the reference to 4.6.1.a is confusing since an increase in the treatment zone soil concentrations (as unlikely as that may be) would not necessarily indicate a release or an increase in constituent concentrations in soils below the treatment zone. Permit condition 3.2.3.a.d (post-closure care requirements) requires monitoring of soils below the treatment zone so	modified to be consistent with Permit Condition 3.2.3.a.d and Permit Condition 4.6.1.b.b has been modified to reference those two conditions. Ground water monitoring is addressed in Permit Conditions 4.6.1.b.a and 4.7.6.b.

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
			perhaps this reference should be used instead of 4.6.1.a. Likewise, the reference to 4.6.1.b in regard to an increase in soil concentrations is confusing. While an increase in groundwater concentrations may be indicative of a release, it would only indicate a potential increase in soil concentrations beneath the treatment zone. We suggest that the wording of the first sentence be changed to read: "If the Permittee determines, pursuant to Permit Condition 3.2.3.a.d or 4.6.1.b, that there is a statistically significant increase of ...constituents in the soils below the treatment zone, or in the groundwater beneath or down gradient from the unit, the Permittee shall notify the Secretary- "	
13	Navajo Refining Company	4.6.2.a Corrective Action for Soil	The first paragraph specifies that a work plan should be submitted to the Secretary, but does not specify when this work plan should be submitted. We	The Permit has been modified to include a requirement that the schedule for submittal of the work plan for conducting subsurface investigations in

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
			would like to see reference made in this section that the schedule for submitting the work plan would be developed and submitted in compliance with section 4.7.5 of the permit. The second paragraph requires Navajo to notify NMED if there is a statistically significant increase [in constituents of concern] in groundwater or soils beneath or in the vicinity of the TEL. A sentence should be added that this increase is in relation to previous groundwater monitoring results or other sampling results.	the vicinity of the TEL be included in the work plan schedule required under Permit Section 4.7.5. The reference to a statistically significant increase in constituents of concern in the groundwater beneath the TEL has been modified to require notification for statistically significant increases in concentrations of petroleum-related or hazardous constituents that indicates a new release, or newly discovered release, in the vicinity of the TEL.
14	Navajo Refining Company	4.6.2.b.b Corrective Action Program for Releases from the Tetraethyl Lead Impoundment	This section requires Navajo, pursuant to Permit Condition 4.6.1.a and 4.6.1.b, to notify NMED if there is a significant increase in concentrations of constituents in soils below the TEL. Permit Conditions 4.6.1.a and 4.6.1.b refer to the North Colony Landfarm, not the TEL. The correct reference should	The reference in Permit Condition 4.6.2.b.b has been corrected to reference Permit Conditions 4.6.2.a and 4.6.2.b.

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
			probably be 4.6.2.a and 4.6.2.b. We suggest that the wording of the first sentence be changed to read: "If the Permittee determines, pursuant to Permit Condition 4.6.2.a or 4.6.2.b, that there is a statistically significant increase of ...constituents in the soils below the TEL, or in the groundwater beneath or dozen-gradient from the unit, the Permittee shall notify the Secretary ..."	
15	Navajo Refining Company	4.6.3.a.a Corrective Action for Soil (page 39)	This paragraph requires Navajo to notify NMED if there is a statistically significant increase in constituents in the groundwater. A sentence should be added that this increase is in relation to previous groundwater monitoring results.	The Permit has been modified to require notification for statistically significant increases in concentrations of petroleum-related or hazardous constituents that indicates a new release, or newly discovered release, in the vicinity of the Evaporation Ponds.
16	Navajo Refining Company	4.6.3.b.a.ii (c) Groundwater Monitoring spa a 41	OCD-7A should be OCD-7AR and OCD-7 should be OCD-5.	Based on clarifying correspondence received from Navajo Refining Company dated August 14, 2003, a monitoring well designated OCD-7 never existed and monitoring well

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
				OCD-7A has been abandoned and replaced by well OCD-7AR. The Permit has been modified to reference monitoring requirements for wells OCD-7AR and OCD-5 instead of wells OCD-7A and OCD-7, respectively.
17	Navajo Refining Company	4.6.3.b.b Corrective Action Program for Releases from the Evaporation Ponds (pages 42-43)	This section specifies that Navajo is to notify NMED if it determines, pursuant to Permit Conditions 4.6.1 and 4.6.3, that there is a statistically significant increase in constituents in the soils below the Evaporation Ponds. Permit Condition 4.6.1 deals with the North Colony Landfarm and relevance to the Evaporation Ponds is unclear. Permit Condition 4.6.3 refers to the Evaporation Ponds but it is unclear as to specifically which subsection, ostensibly pertaining to monitoring of Evaporation Pond soils, applies to this requirement. To what are the soil constituent concentrations to be compared to determine if there has been	Permit Section 4.6.3.b.b has been modified to reference Permit Section 4.6.3.a.a. Permit Section 4.6.3.a.a has been modified as described in the response to Comment Number 15. The reference to 40 CFR 264.278 has been corrected to reference 40 CFR 264.228 and 40 CFR 264 subpart G (“Closure and Post-closure Care for Surface Impoundments” and “Closure and Post-closure”). The notification requirements apply at any time during the closure and the post-closure care period.

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
			<p>an increase? On page 43, there is a reference to 40 CFR 264.278 (f), (g) and (h). 8 264.278 refers to unsaturated zone monitoring of an active land treatment unit. We do not believe the requirements of this reference are relevant to the Evaporation Ponds. Please explain, or remove or correct the reference if it is in error. We believe the requirement of this section is meant to apply after closure of the Evaporation Ponds, when post-closure care requirements will be in effect. However, since the closure has not been completed, it is not yet know[n] what post-closure care requirements will be required and what, if any, soil monitoring will be required during post-closure care. Navajo requests that the meaning of this requirement be clarified. If it is intended to apply after closure (during post-closure care) we request that wording be included specifying that this</p>	

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
			section applies after closure.	
18	Navajo Refining Company	4.6.3.c (i) Soil Investigation (page 43-44)	The first paragraph of this section specifies the specific number of borings to be placed within each pond. We believe the decision as to how many boring locations are necessary should be deferred until development of the required work plan, which NMED must review and approve. Until the work plan is developed, it is premature to speculate how many borings will be necessary and no justification has been provided for the number of borings in the draft-permit. The wording could specify that a "statistically significant" number of borings be placed, subject to approval by the Secretary. While it may not be NMED's intent, the wording in the third paragraph seems to imply that all samples from each boring, as defined in the second paragraph, must be submitted to an analytical laboratory for analysis of one or more of the indicated	<p>Permit Condition 4.6.3.c. (i) has been modified to allow Navajo Refining Company to propose an alternate number of soil borings at the Evaporation Ponds location to satisfy the site investigation requirements included in the Permit. The Permit has been modified to require the Permittee to provide justification for modifying the requirements of this Permit Condition (4.6.3.c (i)).</p> <p>NMED agrees that the text of Permit Section 4.6.3.c (i) was unclear with regard to soil sample chemical analytical requirements. The Permit has been modified to specify that selected soils samples shall be submitted to an analytical laboratory for chemical analyses based on methods to be proposed in the required investigation</p>

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
			parameters. This could result in over 600 individual samples having to be analyzed at substantial cost, for little benefit in determining the nature and extent of potential contamination at the site. We believe it may meet NMED's intent if field screening methods were used to determine which samples should be analyzed in the laboratory and request that this approach be more explicitly reflected in the paragraph.	work plan.
19	Navajo Refining Company	4.6.3.c (ii) Groundwater Investigation (page 44)	This section specifies that a groundwater sample from each boring be analyzed by an analytical laboratory for all of the indicated parameters. This would result in over 100 groundwater samples having to be analyzed. Since groundwater samples obtained from borings are usually not representative of true groundwater conditions, this requirement could result in substantial effort and cost with little benefit. As in the comment above, we suggest that	Permit Condition 4.6.3.c.(ii) has been modified to allow Navajo Refining Company to propose that an alternate number of groundwater samples be collected from exploratory borings at the Evaporation Ponds location and to propose that an alternate chemical analytical suite be used to satisfy the site investigation requirements included in the Permit. The Permit has been modified to require the Permittee to provide justification for modifying the

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
			field screening be used to define which samples are to be analyzed by the laboratory. We also request that the wording on the analyses to be performed be changed to read "...for chemical analyses of one or more of the following..."	requirements of this Permit Condition (4.6.3.c (ii)).
20	Navajo Refining Company	4.7.6.b Groundwater Monitoring (page 47-48)	MW-AE and MW-AH are not monitor wells but are just PVC pipe in the ground. We can measure product thickness in them but they are no good for sampling. MW-24 is damaged. MW-23, MW-43, KWB-2P, KWB-4, KWB-5, KWB-6, and KWB-8 all have product in them. KWB-2A was removed per the farmer's request. MW-8 and MW-21 are stainless steel. They have been known to give false positives for copper, chromium, zinc, etc – the metals that make stainless steel.	The Permit has been modified to remove well MW-24 and KWB-2A. The other wells listed in this comment (number 20) were not removed because the wells can still provide useful information. NMED does not expect the Permittee to sample wells that contain phase-separated hydrocarbons; however, the wells should still be monitored for water/product levels and may be used for water quality sampling in the future after phase-separated hydrocarbons are no longer present. Proposed modifications to the groundwater monitoring and sampling program should be addressed in the

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
				facility-wide groundwater monitoring work plan required under the Permit.
21	Navajo Refining Company	Appendix A A (i) (b) Site Investigations (Appendix A, page 1)	Navajo conducted extensive investigation of Three Mile ditch during the early to mid 1990's. This investigation was performed as part of RFI activities directed by EPA Region 6 and approved by both EPA and NMED. Reports, conclusions and recommendations for corrective action were provided to NMED at that time. The sampling requirements for Three Mile Ditch outlined in the draft permit do not consider these previous efforts. Navajo requests that the reference to a specific number and spacing of borings for additional investigations along the ditch be removed from the permit. The required work plan for investigation of Three Mile Ditch will specify the number and location of borings, subject to NMED approval. The work plan can also provide information from previous	Permit Appendix A has been modified to allow Navajo Refining Company to propose an alternate number of soil borings at the Three Mile Ditch location to satisfy the site investigation requirements included in the Permit. The Permit has been modified to require the Permittee to provide justification for modifying the requirements of this Permit Condition (Appendix A.A).

NAVAJO REFINING COMPANY POST-CLOSURE CARE PERMIT				
COMMENTS AND NEW MEXICO ENVIRONMENT DEPARTMENT RESPONSE				
Comment Number	Commenter	Permit Section Number	Comment	NMED Response
			investigations as explanation and justification for the number and location of additional borings.	
22	Navajo Refining Company	Appendix A (ii) (a) Groundwater Investigations (Appendix A, page 2)	MW-8 and MW -21 are stainless steel. Stainless steel wells have been known to give false positives for chromium, copper, zinc etc. The metals that make up stainless steel.	NMED recognizes that monitoring wells constructed with stainless steel casing may degrade and release certain metals to the ground water. NMED anticipates that the Permittee will note data quality problems and exceptions associated with ground water quality monitoring in the associated periodic monitoring reports submitted to fulfill the requirements of this Permit.